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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,484	07/01/2003	Dcr Jeou Chou	125182.00007	3309
<div>26707      7590      10/17/2007</div> <div>QUARLES &amp; BRADY LLP</div> <div>RENAISSANCE ONE</div> <div>TWO NORTH CENTRAL AVENUE</div> <div>PHOENIX, AZ 85004-2391</div>				
			<div>EXAMINER</div> <div>FLANIGAN, ALLEN J</div>	
			<div>ART UNIT</div> <div>3744</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>10/17/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/611,484

Applicant(s)

CHOU ET AL.

Examiner

Allen J. Flanigan

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy, particularly in view of Bingler.

Murphy is similar to Bingler in showing a heat exchanger with a fan for blowing air in a path through the heat exchanger combined with a pump for circulating fluid through the exchanger, wherein the fan and pump are both driven by the same electric drive means. Note that the airflow past the motor and pump is substantially unblocked by the pump and motor as the fan hub where blades 6 terminate is concentric with the motor and pump casing 11.

The recitation added to claim 1 regarding the rotational speed of the electric motor and pump flow rate fail to patentably distinguish. It would have been obvious to one of ordinary skill in the art to select whatever fan speed and pump flow rate would be required for a particular application of the device. Note the acknowledgement of this in Bingler (paragraph 45 of the Published patent application). The Examiner also notes the admission by the applicants in paragraph 40 of the specification that "The components of the motor, pump, and fan may be selected to provide *any suitable volume, flow rate, and rotational speed*. For example, a fan pump module in accordance with one embodiment of the present invention has a rotational rate of approximately 2000 to 3000 rpm with a pump flow rate of 5 cc/sec to 10 cc/s. It will be appreciated, however, that *these ranges are not intended to be limiting, and that*

*any desired rotation rate and flow rate may be selected*" (italics added). Thus, this limitation can hardly be argued to be critical.

As noted previously, the applicants have admitted that claims 1-23 are not patentably distinct (in traversing an election of species requirement based on claims drawn to different embodiments being patentably distinct), and the Examiner continues to rely on this admission in rejecting the dependent claims; none of the additionally added claims appear to add limitations which are not shown by Murphy. The method claims 24-28 are essentially product claims in that the only method step recited is the nominal "providing" step, followed by a broad recitation of the subject matter of claim 1.

Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen J. Flanigan whose telephone number is (571) 272-4910. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, reading "Allen J. Flanigan". The signature is written in a cursive, flowing style with a large, stylized "A" and "F".

Allen J. Flanigan  
Primary Examiner  
Art Unit 3744

AJF